



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Marc E. Elias
Graham M. Wilson
Jacquelyn K. Lopez
Perkins Coie LLP
700 13th Street, NW Suite 600
Washington, DC. 20005-3960

DEC 19 2018

RE: MUR 7419
Bill Nelson for U.S. Senate
and Peggy Gagnon, as treasurer

Dear Mr. Elias, Mr. Wilson, and Ms. Lopez:

On June 27, 2018, the Federal Election Commission ("Commission") notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On December 17, 2018, based upon the information contained in the complaint and information provided by respondents, the Commission decided to dismiss allegations that Bill Nelson for U.S. Senate, and Peggy Gagnon, in her official capacity as treasurer, violated provisions of the Act. The Commission then closed its file in this matter. A copy of the General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure:
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

SENSITIVE

MUR: 7419

Respondents: Bill Nelson for U.S. Senate
and Peggy Gagnon, as Treasurer
("the Committee")¹

Complaint Receipt Date: June 26, 2018

Response Date: August 16, 2018

EPS Rating:

Alleged Statutory
Regulatory Violations:

52 U.S.C. § 30120(a), (c)
11 C.F.R. §§ 110.11(a)-(c)

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The Complaint alleges that on or about May 29, 2018, "dozens of signs" advocating Bill Nelson's candidacy were displayed near a fundraising event for Nelson in St. Augustine, Florida.² The Complaint alleges that none of the signs had a disclaimer, and presumes that since the signs were displayed at Nelson's campaign event, the Committee likely paid for or authorized the signs.³

The Committee acknowledges that the signs did not have a disclaimer and were paid for by the volunteer campaign supporter who arranged the fundraiser at a private residence.⁴ The Committee, however, argues that the signs did not need a disclaimer because they were not "public communications" as they were displayed as decorations at a private home exclusively for the fundraiser, which was attended by a small group of donors.⁵ The Committee further states that even

¹ Senator Bill Nelson of Florida was a candidate for reelection in 2018. Bill Nelson for U.S. Senate (the "Committee") is Nelson's principal campaign committee.

² Compl. at 1.

³ The Complaint attaches photos of the signs, which state "Nelson for U.S. Senate." Compl. Attach. A-D.

⁴ Resp. at 1, 3.

⁵ Resp. at 1. The Committee asserts that the host of the fundraiser displayed the signs at the event solely as decoration, the Committee has not used these signs for any other purpose, and the Committee reported the cost of the signs as an in-kind contribution. *Id.* The Committee's 2018 July Quarterly Report reports a \$500 contribution on May 22, 2018, with the notation: "In-Kind: Printed Materials." See Bill Nelson for U.S. Senate 2018 July Quarterly Report at 1908, Transaction ID: VTE4NRVC9G4, available at: <http://docquery.fec.gov/cgi-bin/fecime/?201807190200611288>.


if there was a disclaimer violation, the Commission should dismiss it given the isolated nature of the event, the small number of signs involved, and the low dollar amount involved.⁶ *Id.*

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the isolated nature of the event, the small number of signs involved, and the apparent low dollar amount at issue, we recommend that the Commission dismiss the complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all Respondents and send the appropriate letters.

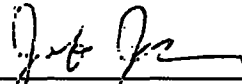
Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Associate General Counsel


11.29.18
Date

BY: 
Stephen Gura
Deputy Associate General Counsel

⁶ Resp. at 1.



Jeff S. Jordan
Assistant General Counsel



Donald E. Campbell.
Attorney

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